

DRUG PARAPHERNALIA

CHAPTER 94

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[HISTORY: Adopted by the City Council of the City of Dover 7-23-80 as Ord. No. 11-80. Amendments noted where applicable.]

94-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DRUG PARAPHERNALIA - All equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of New Hampshire RSA 318-B. It includes but is not limited to:

- A. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- B. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
- C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

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- D. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- E. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- F. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
- G. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.
- H. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- J. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
- K. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injected controlled substances into the human body.
- L. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
 - (2) Water pipes.
 - (3) Carburetion tubes and devices.
 - (4) Smoking and carburetion masks.

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- (5) Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand.
- (6) Miniature cocaine spoons and cocaine vials.
- (7) Chamber pipes.
- (8) Carburetor pipes.
- (9) Electric pipes.
- (10) Air-driven pipes.
- (11) Chillums.
- (12) Bongs.
- (13) Ice pipes or chillers.

94-2. Criteria for judicial or administrative determination.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- A. Statements by an owner or by anyone in control of the object concerning its use.
- B. Prior convictions, if any, of an owner or of anyone in control of the object under any state or federal law relating to any controlled substances.
- C. The proximity of the object, in time and space, to a direct violation of RSA 318-B.
- D. The proximity of the object to controlled substances.
- E. The existence of any residue of controlled substances on the object.

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- F. Direct or circumstantial evidence of the intent of the owner or of anyone in control of the object to deliver it to persons who he knows or should reasonably know, intend to use the object to facilitate a violation of RSA 318-B; the innocence of an owner or of anyone in control of the object as to a direct violation of RSA 318-B should not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
- G. Instructions, oral or written, provided with the object concerning its use.
- H. Descriptive materials accompanying the object which explain or depict its use.
- I. National and local advertising concerning its use.
- J. The manner in which the object is displayed for sale.
- K. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
- L. The existence and scope of legitimate uses for the object in the community.
- M. Expert testimony concerning its use.

94-3. Violations and penalties.

- A. Possession of drug paraphernalia. It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of RSA 318-B. Any person violating this section shall be guilty of a violation and shall be subject to a fine of one hundred dollars (\$100.), no portion of which may be suspended.

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- B. Manufacture or delivery of drug paraphernalia. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing or under circumstances where one reasonably should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of RSA 318-B. Any person violating this section shall be guilty of a violation and shall be subject to a fine of one hundred dollars (\$100.), no portion of which may be suspended.
- C. Delivery of drug paraphernalia to a minor. Any person eighteen (18) years of age or over who violates 94-3B by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior shall be guilty of a special violation and shall be subject to a fine of one hundred dollars (\$100.), no portion of which may be suspended.
- D. Advertisement of drug paraphernalia. It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement knowing or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote the sales of objects designed or intended for use as drug paraphernalia. Any person violating this section shall be guilty of a violation and shall be subject to a fine of one hundred dollars (\$100.), no portion of which may be suspended.